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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,223	09/16/2003	Stephen J Brown	7553.00095 / 03-0900	2222
60683	7590	02/23/2009		
HEALTH HERO NETWORK, INC. 2400 GENG ROAD, SUITE 200 PALO ALTO, CA 94303			EXAMINER FRENEL, VANEL	
			ART UNIT 3687	PAPER NUMBER
			MAIL DATE 02/23/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/605,223	BROWN, STEPHEN J	
	Examiner	Art Unit	
	VANEL FRENEL	3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20080903, 20080716, 20050523, 20060215</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the response filed on 06/09/08. Claims 1-90 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-29 and 31-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu et al. (4,803,625) and Lee (4,838,275).

As per claim 1, Fu discloses a networked health-monitoring system comprising: a plurality of remote patient sites (See Fu, Col.5, lines 4-52), each site including at least one display (See Fu, Col.5, lines 53-68); a data management unit configured to facilitate collection of patient health-related data (See Fu, Col.8, lines 46-60); a memory and stored program instructions for generating health-monitoring related information on the display (See Fu, Col.5, lines 53-68).

Fu does not explicitly disclose at least one central server connectable for communication with the data management units at the patient sites to receive patient health-related data collected at the remote patient sites, wherein the system is configured to produce reports, including standardized reports, from the received data.

However, these features are known in the art, as evidenced by Lee. In particular, Lee suggests that the system having at least one central server connectable for communication with the data management units at the patient sites to receive patient health-related data collected at the remote patient sites, wherein the system is configured to produce reports, including standardized reports, from the received data (See Lee, Fig.1; Col.11, lines 48-68; Col.13, lines 42-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Lee within the system of Fu with the motivation of providing home medical surveillance and response, for use by many patients. The method includes the step of routinely obtaining a multiplicity of measurements related to the state of health of each patient, by remote sensing equipment, while the patient is at home (See Lee, Col.6, lines 66-68 to Col.7, line 4).

As per claim 2, Fu in view of Lee discloses the system of claim 1 (as described above). Lee discloses wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is produced (See Lee, Col.13, lines 5-15).

As per claim 3, Fu and Lee disclose the system of claim 1 (as described above). Lee discloses the system wherein the reports use graphs and/or icons (See Lee Col.13, lines 5-16).

As per claim 4, Fu and Lee disclose the system of claim 1 (as described above.

Fu discloses the system wherein the reports can be generated periodically (See Fu, Col.5, lines 19-41).

As per claim 5, Fu discloses the system wherein the server can generate the report (Col. 5, lines 15-38).

As per claim 6, Fu discloses the system wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site (Col. 5, lines 15-38).

As per claim 7, Fu discloses the system wherein the reports include formatted statistical or trend information (Col. 5, lines 15-38).

As per claim 8, Fu discloses the system wherein the report includes information data for a period of time (Col. 13, lines 5- 16).

As per claim 9, Lee discloses the system wherein the system can display statistical or trend information to the patient (See Lee, Col.13, lines 12-17).

As per claim 10, Fu discloses the system wherein the report includes information data for a period of time (See Fu, Col.5, lines 1-6).

As per claim 11, Lee discloses the system further comprising at least one health care professional computer, remotely located from and in signal communication with the central server (See Lee, Col.5, lines 64-68 to Col.6, line 25).

As per claim 12, Fu discloses the system further comprising at least one health-monitoring device configured to monitor at least one patient health condition at least one remote patient site and to communicate data related to the monitored condition to the central server (See Fu, Col.5, lines 53-68).

As per claim 13, Lee discloses the system wherein the data management unit facilitates collection of health-related data by receiving data related to the monitored condition from at least one of the health-monitoring devices (See Lee, Col.5, lines 64-68 to Col.6, line 25).

As per claim 14, Fu discloses the system wherein at least one of the health-monitoring devices includes one or more of the set consisting of a blood glucose monitor; a peak flow meter; a blood pressure monitor; a pulse monitor; and a body temperature monitor (See Fu, Col.5, lines 7-14).

As per claim 15, Fu discloses the system wherein the data management unit is configured to facilitate collection of health-related data entered by a patient at the remote patient site using buttons, keys or switches (See Fu, Col.2, lines 16-43).

As per claim 16, Fu discloses the system wherein the data management unit is physically separate from the display (See Fu Col.6, lines 46-54).

As per claim 17, Fu discloses the system wherein the memory and the display form a part of one of the health-monitoring devices (See Fu, Col.5, lines 1-15).

As per claim 18, Lee discloses the system wherein the display is in a handheld device (See Lee, Col.11, lines 24-34).

As per claim 19, Fu discloses the system wherein the handheld device is capable of displaying pictorial health-monitoring related information (See Fu, Col.5, lines 1-15).

As per claim 20, Fu discloses the system wherein the handheld device is capable of displaying animated health-monitoring related information (See Fu, Col.5, lines 1-15).

As per claim 21, Lee discloses the system wherein the memory is a program cartridge (See Lee, Col.11, lines 49-63).

As per claim 22, Fu discloses the system wherein the remote sites further include at least one personal computer connected to the data management unit (See Fu, Col.10, lines 1-14 and lines 28-61).

As per claim 23, Fu discloses the system wherein the system is configured to transmit a message for display on at least one display (See Fu, Col.6, lines 46-54).

As per claim 24, Fu discloses the system wherein the message includes step-by-step instructions (See Fu Col.10, lines 1-14 and lines 28-61).

As per claim 25, Lee discloses the system wherein the messages are results of a test (See Lee, Col.16, lines 39-43).

As per claim 26, Lee discloses the system wherein the message includes a diagnostic indication related to whether a test has proceeded in a normal fashion (See Lee Col.16, lines 39-43).

As per claim 27, Lee discloses the system wherein the message is a multi-line message (See Lee Col.16, lines 39-43).

As per claim 28, Lee discloses the system wherein the message is a health care professional selected message (See Lee Col.16, lines 39-43).

As per claim 29, Lee discloses the system wherein the health-care professional generates the selected message (See Lee Col.16, lines 39-43).

As per claim 31, Fu discloses the system wherein the system is configured to cause message to be transmitted to a specific patient (See Fu, Col.5, lines 53-68).

As per claim 32, Fu discloses the system wherein the system is configured to cause the message to be transmitted automatically to the patient (See Fu, Col.5, lines 53-68).

As per claim 33, Fu discloses the system wherein system enables the patient to choose when to receive the message (See Lee Col.16, lines 39-43).

As per claim 34, Fu discloses the system wherein the messages can be stored before being transmitted to the patient. (See Lee Col.5, lines 53-68).

As per claim 35, Fu discloses the system wherein the system is configured to allow the patient to control the display of information using at least one menu (See Fu, Col.5, lines 6-15; Col.10, lines 1-14).

As per claim 36, Fu discloses the system wherein the menu allows the patient to select any one of the operational modes from the set consisting of: a display mode for displaying relevant information (See Fu, Col.5, lines 53-68); an input mode for providing information (See Fu, Col.5, lines 53-68); and a communications mode for establishing a link with the central server (See Fu, Col.1, lines 43-64).

As per claim 37, Fu discloses the system wherein the menu allows a patient to select a monitoring mode in which at least one of the health-monitoring devices is used (See Fu, Col.6, lines 46-54).

As per claim 38, Lee discloses the system wherein the menu allows a patient to display messages or instructions from a health care professional (See Lee, Col.5, lines 64-68 to Col.6, line 25).

As per claim 39, Lee discloses the system wherein the system is configured to enable the patient to respond to information on the display by using a cursor or other indicator positioned at a selected item (See Lee, Col.13, lines 5-16).

As per claim 40, Fu discloses the system wherein the system is configured to enable programs to be provided, from the server for storage in a memory and execution at a remote patient site (See Fu, Col.5, lines 53-68; Col.6, lines 52-57).

As per claim 41, Lee discloses the system wherein the patient can indicate user experienced symptoms to the system (See Lee Col.16, lines 39-43).

As per claim 42, Lee discloses the system wherein the system can capture quantitative measurements (See Lee, Col.16, lines 39-43).

As per claim 43, Lee discloses the system wherein the system can capture medication data (See Lee, Col.16, lines 39-43).

As per claim 44, Lee discloses the system wherein the collected patient health-related data includes time data (See Lee, Col.16, lines 39-43).

As per claim 45, Fu discloses the system wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user (See Fu, Col.5, lines 44-62).

4. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fu et al. (4,803,625) in view of Lee (4,838,275) and further in view of Bro (5,377,258).

As per claim 30, Fu in view Lee discloses all the limitations of claim 1 (as described above). Fu and Lee does not specifically disclose the system wherein the

message is educational or motivational. Bro discloses the system wherein the message is educational or motivational (See Bro, Co1.5, lines 39-50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Bro within the collective teachings of Fu and Lee with the motivation of providing patients or care giver more information.

Claims 47-89 recite the underlying process steps of the elements of claims 2-29 and 31-45 respectively. As the various elements of claims 2-29 and 31-45 have been shown to be either disclosed by or obvious in view of the collective teachings of Fu, Lee and Bro, it is readily apparent that the system by the applied prior art performs the recited underlying functions. As such, the limitations recited in claims 47-89 are rejected for the same reasons given above for system claims 2-29 and 31-45, and incorporated herein.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not the applied art teaches health support system (5,390,238).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/
Examiner, Art Unit 3687
February 17, 2009

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